

REMARKS

Claims 1-10 and 12 are pending. Claims 1-10 have been amended to improve readability. Claim 11 has been canceled as unnecessary. New claim 12 has been added herein. New claim 12 is supported by FIGS. 1, 3, 5 and 6, for example. Applicants respectfully request reconsideration of the application in response to the non-final Office Action.

Claim Rejections – 35 USC §103(a)

Claims 1-4 and 7-9 have been newly rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,692,996 (Widerman) in view of U.S. Patent No. 5,709,634 (Pointer).

In rejecting claims 1-4 and 7-9, the Office has suggested that Widerman allegedly teaches the flexible plate but does not teach a plurality of projections or a weight applying means, while Pointer allegedly teaches in an analogous art a plate having a plurality of projections and a weight applying means. Then, the Office has stated: "It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Widerman in view of the teaching of Pointer such that projections provide a massaging effect on a users [sic] skin while exercising and weight means provides resistance." Applicant respectfully disagrees.

Widerman has stated: "Barbell plates generally come in increments...and thus, one could pick the size plate that was appropriate for one's strength and routine. As the routine evolved and unique exercises were developed, the inventor sought to design and develop a special weight that could be used for doing the routine." (See, Col. 1, lines 17-26). As stated, Widerman was motivated to develop a *special weight* that is designed for evolved unique exercises as the existing barbell plates are not suitable for the unique exercises. Accordingly, one of the objectives of Widerman's invention is providing a *single weight* used for a unique exercise routine. (See, Col. 1, lines 50-52). In contrast, Pointer merely discloses a device that includes a frame capable of mounting barbell sets thereto. First, Pointer does not teach that the Pointer's device is designed for the same unique exercises as

Widerman's device is developed for. Second, if that were so, Widerman's motivation would induce a skilled artisan to modify the Pointer's barbell plates into a single weight, resulting a device that would be quite different from the presently claimed invention. In other words, there is no motivation to combine the cited references so as to derive the device that claim 1 is directed to. Accordingly, Applicant respectfully submits that a *prima facie* case of obviousness has not been established.

Regarding the projections, the Office has asserted that Pointer allegedly teaches a plurality of projections 20. The projections 20 of Pointer's device are cushioning pads for providing a soft interface between a user's head and the frame for holding weights. In marked contrast, the projections of the presently claimed invention contact the skin of an abdomen and attack subcutaneous fat and blood vessels of the abdomen when the exerciser is placed on the abdomen for exercise.

For emphasis of the difference between the cushioning pads of Pointer's device and projections recited in claim 1, claim 1 has been amended to recite "wherein said projections contact the skin of an abdomen and attack subcutaneous fat and blood vessels of the abdomen when the exerciser is placed on the abdomen." Support for the added recitation is found in the specification, at page 5, lines 19-24, for instance. As acknowledged by the Office, Widerman does not teach the plurality of projections. Since, the cited references, taken individually or in combination, do not teach or suggest all of the recitations of claim 1, Applicant respectfully submits that a *prima facie* case of obviousness has not been established and request that the rejection of claim 1 be withdrawn.

To further differentiate the presently claimed invention from the cited references, claim 1 has been amended to add a recitation "a thermal keeping plate stacked to the bottom surface of the flexible plate and operative to prevent heat generated by the abdomen from dissipating, said thermal keeping plate having a plurality of apertures for passing the projections therethrough." Support for this recitation is found in the specification, at page 5, lines 1-14 and FIG. 1, for example. None of the cited references, taken individually or in combination, teach or suggest this recitation, rendering claims 1 patentable over the cited references.

Claims 2-4 and 7-9 depend from claim 1, rendering them also patentable for at least the same reasons set forth above. An indication of allowance on claims 1-4 and 7-9 are respectfully requested.

Claim 1 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Widerman in view of Pointer and U.S. Patent No. 1,697,957 (Kelly).

In rejecting claim 1, the Office has suggested that Widerman allegedly teaches the flexible plate but does not teach a plurality of projections or a weight applying means, while Pointer allegedly teaches in an analogous art a plate having a plurality of projections and a weight applying means. Then, the Office has stated: "Kelly also teaches a plurality of projections. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Widerman in view of the teaching of Pointer such that projections provide a massaging effect on a users [*sic*] skin while [*sic*]."

A review of Kelly patent reveals that Kelly does not disclose "a thermal keeping plate stacked to the bottom surface of the flexible plate and operative to prevent heat generated by the abdomen from dissipating, said thermal keeping plate having a plurality of apertures for passing the projections therethrough" as recited in amended claim 1. As discussed above, Widerman and Pointer are silent on this recitation. Since the cited references, taken individually or on combination, fail to teach or suggest all of the limitations of the claimed invention, Applicant respectfully submits that the *prima facie* case of obviousness is not established, and claim 1 is patentable. Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Claims 5-6 and 10-11 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Widerman and Pointer as applied to claim 1 above and further in view of Shigemori (JP 07236680).

In rejecting claims 5-6 and 10-11, the Office has stated: "Widerman teaches...except for the projections being a [*sic*] capable of emitting far infra red rays and a heat emitting [plate], and thermal keeping plate including a plurality of

permanent magnets. Thus, Shigemori teaches a mineral filling capable of emitting far infrared rays and a thermal plate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a plates [sic] between the flexible plate for producing heat and keeping the temperature of the users abdomen warm." This rejection is respectfully traversed.

Claims 5 and 10 are drawn to a thermal keeping plate. Claim 6 is drawn to a heat emitting plate that is disposed between the flexible plate and the thermal keeping plate and is operative to generate heat upon application of electricity to the heat emitting plate. A review of Shigemori reveals that Shigemori teaches or suggests neither the thermal keeping plate nor the heat emitting plate as recited in claims 5, 10 and 6, respectively. Wideman and Pointer are silent on the thermal keeping plate and heat emitting plate. As the cited references, taken individually or in combination, do not teach or suggest all of the limitations of the claimed invention, Applicant respectfully submits that the *prima facie* case of obviousness is not established, and claims 5, 6 and 10 are patentable.

Conclusion

Based on the reasons as set forth above, Applicant respectfully requests allowance of all pending claims including 1-10 and 12.

In the event that there are any questions concerning this paper, or the application in general, the Examiner is respectfully urged to telephone Applicant's undersigned representative so that prosecution of the application may be expedited.

Respectfully submitted,

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